HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:28210 OF 2007

Dated:28.12.2007

Between:

M/s. Rasheed Cycle Agencies,
Kurnool, rep., by its Proprietor
T. Abdul Rasheed.

..Petitioner

And

1. Additional Commissioner (CT) Legal,
   A.P. Hyderabad and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
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WRIT PETITION No:28210 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the 1st respondent in rejecting the stay application vide proceedings dated 10.12.2007 in CCT's Ref.No.LIII (3)/629/2007 as illegal and arbitrary and consequently, to grant stay of collection of disputed penalty for the assessment years 2002-2003 to 2004-2005 pending disposal of the appeals pending before the 2nd respondent.

The main grievance of the petitioner is that aggrieved by the proceedings issued by the 3rd respondent levying penalty, appeals have been preferred before the 2nd respondent. The petitioner has also filed stay applications. But the said applications were rejected. Hence, the petitioner filed revision applications before the 1st respondent. But, the 1st respondent also rejected the stay applications. Having aggrieved by the same, the present writ petition has been filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that against the penalty proceedings issued by the 3rd respondent, appeals are pending before the 2nd respondent and at this stage, the 1st respondent as well as the 2nd respondent are not justified in rejecting the stay applications. He further contended that the penalty proceedings being quasi criminal in nature, if the relief of stay is not entertained, serious prejudice would be caused to the rights of the

petitioner.

In the facts and circumstances of the case and in view of the fact that the appeals are pending before the 2nd respondent, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of collection of disputed penalty pending disposal of the appeals before the 2nd respondent subject to the condition of the petitioner depositing 1/4th of the disputed penalty of each assessment year, within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th December, 2007

Nn/Gurc.

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(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/12/2007